

SENATE BILL 641 (LRB -4667)

An Act to amend 165.85 (3) (d); and to create 175.40 (6m) of the statutes; relating to: authority for an off-duty peace officer to act outside his or her territorial jurisdiction. (FE)

2006

04-07.	S.	Introduced by Senators Lazich, Carpenter and Roessler ; cosponsored by Representatives Krusick, Gundrum, Stone, Ainsworth, Bies, Hahn, Jeskewitz, Lehman, LeMahieu, Musser, Nass, Owens, Sinicki, Zepnick, Friske, Mursau and Kaufert .	
02-28.	S.	Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform	636
03-20.	S.	Withdrawn from committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform and rereferred to committee on Judiciary, Corrections and Privacy, pursuant to Senate Rule 46 (2)(c)	748
04-03.	S.	Fiscal estimate received.	
04-06.	S.	Public hearing held.	
04-07.	S.	Senate amendment 1 offered by Senator Lazich (LRB a2902)	768
04-12.	S.	LRB correction	771
04-18.	S.	Report adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 4, Noes 1	776
04-18.	S.	Report passage as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 4, Noes 1	776
04-18.	S.	Available for scheduling.	
04-24.	S.	Placed on calendar 4-25-2006 by committee on Senate Organization.	
04-25.	S.	Read a second time	786
04-25.	S.	Senate amendment 1 adopted	786
04-25.	S.	Ordered to a third reading	786
04-25.	S.	Rules suspended	786
04-25.	S.	Read a third time and passed	786
04-25.	S.	Ordered immediately messaged	787
05-02.	A.	Placed on calendar 5-4-2006 by committee on Rules.	
05-04.	A.	Received from Senate.	
05-04.	A.	Read first time and referred to committee on Rules.	
05-04.	A.	Read a second time.	
05-04.	A.	Ordered to a third reading.	
05-04.	A.	Rules suspended.	
05-04.	A.	Read a third time and concurred in .	
05-04.	A.	Ordered immediately messaged.	
05-04.	S.	Received from Assembly concurred in.	

2005 ENROLLED BILL

05en S B- 641

ADOPTED DOCUMENTS:

☐ Orig ☐ Engr ☐ SubAmdt

05 -46671 1

Amendments to above (if none, write "NONE"): SAI — a 2902/1

Corrections - show date (if none, write "NONE"): April 12, 2006

Topic Rel

5-9-06

Date

JR Miller

Enrolling Drafter

ELECTRONIC PROCEDURE:

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling

DISTRIBUTION:

HOUSE OF ORIGIN:

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

REVISOR OF STATUTES:

- 5 copies

DEPARTMENT OF ADMINISTRATION:

- 2 copies

LRB:

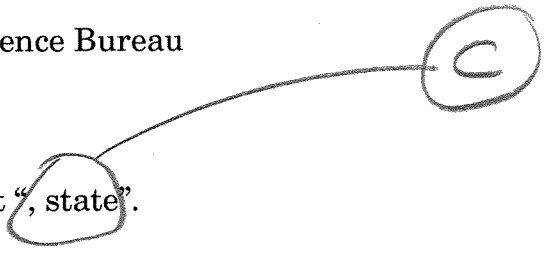
- Drafting file original
- Drafting attorney 1 copy
- Legislative editors 1 copy each
- Reference section 1 copy
- Bill index librarian 1 copy

2005-2006 LEGISLATURE

CORRECTIONS IN:

2005 SENATE BILL 641

Prepared by the Legislative Reference Bureau
(April 12, 2006)

1. Page 4, line 6: before "employee" insert ", state".
- 

(END)

2005 SENATE BILL 641

February 28, 2006 – Introduced by Senators LAZICH, CARPENTER and ROESSLER, cosponsored by Representatives KRUSICK, GUNDRUM, STONE, AINSWORTH, BIES, HAHN, JESKEWITZ, LEHMAN, LEMAHIEU, MUSSER, NASS, OWENS, SINICKI, ZEPNICK, FRISKE, MURSAU and KAUFERT. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

1 **AN ACT** *to amend* 165.85 (3) (d); and *to create* 175.40 (6m) of the statutes;
2 **relating to:** authority for an off-duty peace officer to act outside his or her
3 territorial jurisdiction.

INS. SAI-1

Analysis by the Legislative Reference Bureau

Under current law, a peace officer while on duty and on official business, may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if all of the following conditions are met: 1) the officer's action would be authorized if done in his or her own jurisdiction; 2) the officer is responding to an emergency situation, which poses a significant threat of death or bodily harm, or the officer is responding to activity that constitutes a felony; and 3) the officer's supervising agency has adopted policies authorizing the officer to act outside his or her jurisdiction, and the officer's actions are in compliance with the policies. Also under current law, a peace officer is immune from civil or criminal liability for acts done in the course of his or her official duty, including acts that meet the above criteria and are committed outside the officer's territorial jurisdiction but within the state.

This bill provides that an off-duty peace officer may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if conditions similar to those for an on-duty officer acting outside his or her jurisdiction are met. The officer must be engaging in conduct that would be authorized if done in his or her own jurisdiction. The officer may act in response to an emergency that poses a significant threat of death or bodily harm, but may not act solely in response

SENATE BILL 641

to commission of a felony. Finally, an off-duty officer may only act outside his or her jurisdiction if the officer's supervising agency has adopted policies authorizing action by off-duty officers outside their jurisdiction and if the officer's acts are in compliance with those policies.

The bill grants a peace officer civil and criminal immunity for acts authorized by the bill that are committed while the officer is off duty and out of his or her jurisdiction but in the state. The bill further provides that an off-duty officer acting outside his or her jurisdiction and in accordance with authority provided in the bill is eligible for worker's compensation benefits, and in general is considered to be performing his or her duty and engaging in his or her occupation so as to be eligible for duty disability benefits. Finally, the bill makes the state, rather than the officer's employer, financially liable for defending against lawsuits, paying damages, and paying worker's compensation benefits arising out of an act committed by an off-duty officer acting outside his or her jurisdiction and in accordance with the authority provided under the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT SAI-2

~~Section 1.~~ 165.85 (3) (d) of the statutes, as affected by 2005 Wisconsin Act 60,
is amended to read:

INSERT SAI-2

165.85 (3) (d) Establish minimum curriculum requirements for preparatory courses and programs, and recommend minimum curriculum requirements for recertification and advanced courses and programs, in schools operated by or for this state or any political subdivision of the state for the specific purpose of training law enforcement recruits, law enforcement officers, tribal law enforcement recruits, tribal law enforcement officers, jail officer recruits, jail officers, secure detention officer recruits, or secure detention officers in areas of knowledge and ability necessary to the attainment of effective performance as an officer, and ranging from subjects such as first aid, patrolling, statutory authority, techniques of arrest, protocols for official action by off-duty officers, firearms, and recording custodial interrogations, to subjects designed to provide a better understanding of

SENATE BILL 641

1 ever-increasing complex problems in law enforcement such as human relations, civil
2 rights, constitutional law, and supervision, control, and maintenance of a jail or
3 secure detention facility. The board shall appoint a 13-member advisory curriculum
4 committee consisting of 6 chiefs of police and 6 sheriffs to be appointed on a
5 geographic basis of not more than one chief of police and one sheriff from any one of
6 the 8 state administrative districts together with the director of training of the
7 Wisconsin state patrol. This committee shall advise the board in the establishment
8 of the curriculum requirements.

9 **SECTION 2.** 175.40 (6m) of the statutes is created to read:

10 175.40 (6m) (a) An off-duty peace officer may arrest a person or provide aid
11 or assistance outside of his or her territorial jurisdiction but in the state if all of the
12 following apply:

13 1. The officer is responding to an emergency situation that poses a significant
14 threat to life or of bodily harm.

15 2. The officer is taking action that he or she would be authorized to take under
16 the same circumstances in the officer's territorial jurisdiction.

17 3. The officer's supervising agency has adopted written policies authorizing
18 off-duty officers to make arrests or provide aid or assistance outside of the agency's
19 territorial jurisdiction but in the state, and the policies at a minimum address all of
20 the following:

21 a. Reasonable responses to an emergency situation under subd. 1.

22 b. Arrests made in response to an emergency situation under subd. 1.

23 c. Notification of and cooperation with a law enforcement agency of another
24 jurisdiction regarding arrests made and other actions taken in the other jurisdiction.

25 4. The officer's action is in compliance with the policies under subd. 3.

SENATE BILL 641

SECTION 2

1 (b) A supervising agency may limit its officer's authority to act under this
2 subsection by including limitations in the written policies under par. (a) 3.

3 (c) 1. For purposes of civil and criminal liability and for purposes of s. 895.46,
4 an off-duty peace officer acting outside the officer's jurisdiction as authorized under
5 this subsection is considered to be acting in an official capacity as an officer of the
6 state employee, or agent of the state.

INSERT C

7 2. For purposes of worker's compensation under ch. 102, an off-duty peace
8 officer acting outside the officer's territorial jurisdiction as authorized under this
9 subsection is considered to be an employee of the state and the officer is eligible for
10 the same benefits as if the officer had sustained the injury while performing services
11 growing out of and incidental to the officer's employment with the employing
12 supervisory agency.

13 3. An off-duty peace officer acting outside the officer's territorial jurisdiction
14 as authorized under this subsection is considered to be performing his or her duty
15 and engaging in his or her occupation.

16 (END)

**SENATE AMENDMENT 1,
TO 2005 SENATE BILL 641**

April 7, 2006 - Offered by Senator LAZICH.

SAI-1

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: after "jurisdiction" insert "and making an appropriation".

3 **2.** Page 2, line 1: before that line insert:

4 "SECTION 1g. 20.005 (3) (schedule) of the statutes: at the appropriate place,
5 insert the following amounts for the purposes indicated:

6 2005-06 2006-07

7 **20.505 Administration, department of**

8 (2) RISK MANAGEMENT

9 (am) Costs and judgments GPR A -0- -0-

10 **SECTION 1j.** 20.505 (2) (am) of the statutes is created to read:

11 20.505 (2) (am) *Costs and judgments.* The amounts in the schedule for costs
12 and judgments under s. 175.40 (6m) (c) 1. or 2."

SAI-2

2 (END)